

EXHIBIT 1

From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Wednesday, March 15, 2023 2:38 PM
To: Jonathan Cooper <jonathancooper@quinnemanuel.com>; Singer, Linda <lsinger@motleyrice.com>
Cc: Jayne Conroy <jconroy@simmonsfirm.com>; Rice, Joe <jrice@motleyrice.com>; Weinberger, Peter H. <PWeinberger@spanglaw.com>; Joanne Cicala <joanne@cicalapllc.com>; Boone, Brian <Brian.Boone@alston.com>; Chemerinsky, Kim <Kim.Chemerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Mike Lyle <mikelyle@quinnemanuel.com>; Patrick King <patrickking@quinnemanuel.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Matthew Wasserman <matthewwasserman@quinnemanuel.com>; McGowan, Emily <Emily.McGowan@alston.com>
Subject: Re: PBM status call

EXTERNAL SENDER – Proceed with caution

Greetings. I asked the Judge about this, to ensure I was doing what he wanted. He stated he needs to hear from the parties and will do so during the zoom call scheduled for noon on 3/22.

So - you can put on hold the bellwether picking process until then. But please continue to confer about what information each side needs to make mediation successful, and begin/continue your production thereof.

There is no need to chat with me on Friday. Thanks.

-d

=====
This email sent from:
David R. Cohen Co. LPA
24400 Chagrin Blvd., Suite 300
Cleveland, OH 44122
216-831-0001 tel
866-357-3535 fax
www.SpecialMaster.law

From: Jonathan Cooper <jonathancooper@quinnemanuel.com>
Sent: Wednesday, March 15, 2023 5:13 PM
To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>; Singer, Linda <lsinger@motleyrice.com>
Cc: Jayne Conroy <jconroy@simmonsfirm.com>; Rice, Joe <jrice@motleyrice.com>; Weinberger, Peter H. <PWeinberger@spanglaw.com>; Joanne Cicala <joanne@cicalapllc.com>; Boone, Brian <Brian.Boone@alston.com>;

Chemerinsky, Kim <Kim.Chemerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Mike Lyle <mikelyle@quinnemanuel.com>; Patrick King <patrickking@quinnemanuel.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Matthew Wasserman <matthewwasserman@quinnemanuel.com>; McGowan, Emily <Emily.McGowan@alston.com>

Subject: RE: PBM status call

Dear Special Master Cohen,

I write for the PBM Defendants to request an instruction directing Plaintiffs to proceed with nominating potential bellwethers in accordance with the directions that Judge Polster and you previously provided. Specifically, we request that you direct each side (Plaintiffs and PBM Defendants) to (1) exchange nominations of three potential bellwethers by noon ET on Thursday and (2) strike two of the other side's potential bellwethers by noon ET on Friday.

The PBM Defendants (Express Scripts and OptumRx) are ready to nominate bellwethers, but Plaintiffs notified us this afternoon that they are unwilling to do so. Despite agreeing during our call with you on Monday to speak with the PBM Defendants on Tuesday about bellwether and mediation issues, the Plaintiffs canceled the call shortly before it was to occur. To ensure we could still fulfill your direction to complete selection of two bellwethers by Friday, the PBM Defendants then wrote to the Plaintiffs to ask them to agree to exchange nominations of three potential bellwethers by noon ET on Thursday, with strikes by noon ET on Friday. This afternoon, Plaintiffs responded that, in light of the potential disqualification issues OptumRx has raised, the Plaintiffs "have determined that it is impossible for us pick bellwether cases without knowing who you seek to disqualify and what the disqualifying issue is," and they "will not be further responding to [the bellwether] email until we get this issue resolved."

The PBM Defendants do not understand why any potential disqualification issues would preclude Plaintiffs from selecting bellwethers. Indeed, the potential disqualification issues were raised during our call with you on Monday, yet Plaintiffs did not at that time voice any concern that it would interfere with selecting bellwethers by Friday.

Given your clear instruction during our call on Monday that the parties must select two bellwethers by Friday, and that the process to select the bellwethers—absent agreement by the parties on an alternative process—is for each side to nominate three and then strike two of the other side's nominees, we request that you instruct the Plaintiffs to proceed with that process by (1) exchanging nominations of three potential bellwethers by noon ET Thursday and (2) striking two of the other side's nominations by noon ET Friday.

I have attached the PBM Defendants' correspondence with Plaintiffs on these issues.

Best,
Jon

Jonathan Cooper
Partner,
Quinn Emanuel Urquhart & Sullivan, LLP

1300 I Street, NW, Suite 900
Washington, D.C. 20005
301-503-2457 Cell
202-538-8146 Office
jonathancooper@quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>

Sent: Monday, March 13, 2023 11:48 AM

To: Jonathan Cooper <jonathancooper@quinnemanuel.com>; Singer, Linda <lsinger@motleyrice.com>
Cc: Jayne Conroy <jconroy@simmonsfirm.com>; Rice, Joe <jrice@motleyrice.com>; Weinberger, Peter H. <PWeinberger@spanglaw.com>; Joanne Cicala <joanne@cicalapllc.com>; Boone, Brian <Brian.Boone@alston.com>; Chemerinsky, Kim <Kim.Chemerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Mike Lyle <mikelyle@quinnemanuel.com>; Patrick King <patrickking@quinnemanuel.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Matthew Wasserman <matthewwasserman@quinnemanuel.com>; McGowan, Emily <Emily.McGowan@alston.com>
Subject: PBM status call

[EXTERNAL EMAIL from david@specialmaster.law]

Please use the following numbers for our 1:30p telecon. Please forward this email as necessary.
Thanks.

Dial-in Number: 1.888.346.3950
Participant Entry Code: 7763-3882#

-David

=====
This email sent from:
David R. Cohen Co. LPA
24400 Chagrin Blvd., Suite 300
Cleveland, OH 44122
216-831-0001 tel
866-357-3535 fax
www.SpecialMaster.law